

# HOUSE . . . . . No. 1615

By Ms. Khan of Newton, petition of Kay Khan and others relative to involuntary outpatient commitment for mentally ill persons. Mental Health and Substance Abuse.

## The Commonwealth of Massachusetts

### PETITION OF:

Kay Khan	Anne M. Paulsen
Douglas W. Petersen	Shirley Owens-Hicks
Patricia D. Jehlen	Elizabeth A. Malia
Theodore C. Speliotis	Carl M. Sciortino, Jr.

In the Year Two Thousand and Five.

### AN ACT CREATING INVOLUNTARY OUTPATIENT COMMITMENT LAW FOR MENTALLY ILL PERSONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of Chapter 123 of the General Laws, as  
2 appearing in the 2000 Official Edition, is hereby amended by  
3 inserting, in line 18, after the word “program” the following:—  
4 “Gravely disabled” means a condition evidenced by behavior in  
5 which a person, as a result of a mental disorder, becomes likely to  
6 come to serious physical harm or serious illness because of his  
7 inability to provide for his basic physical needs.

1 SECTION 2. Said section 1 of said chapter 123, as so  
2 appearing, is further amended by inserting, in line 20, after the  
3 word “review” the following:—  
4 “Informed decision” means a voluntary decision following pre-  
5 sentation of all facts necessary to form the basis of an intelligent  
6 consent by the patient or guardian with no minimizing of known  
7 dangers of any procedures.

1 SECTION 3. Said section 1 of said chapter 123, as so  
2 appearing, is further amended by inserting, in line 34, after the  
3 word “community” the following:—

4 “Medical director” means a psychiatrist, or other licensed  
5 physician experienced in psychiatric matters, designated in  
6 writing by the governing body of the facility as the person in  
7 charge of the medical services of the facility.

8 “Outpatient Treatment” means any treatment that does not  
9 require continuous inpatient hospitalizations.

1 SECTION 4. Said Chapter 123 of the General Laws, as so  
2 appearing, is further amended by inserting after section 7 the  
3 following new section:—

4 Section 7 1/2.

5 (a) The superintendent of any public or private facility or hos-  
6 pital authorized for the commitment or treatment of mentally ill  
7 persons under section 8(a) or 12(a) of this chapter, may petition  
8 the district court in whose jurisdiction the facility is located for  
9 the outpatient commitment of any patient at such facility whom  
10 the superintendent determines (1) is mentally ill, and (2) displays  
11 one or more of the following:

12 (i). Likelihood of creating serious harm, or

13 (ii). Incapacity to make an informed decision regarding treat-  
14 ment, or

15 (iii). Grave disability, and

16 (3) the patient will likely deteriorate without treatment.

17 (b) Any physician or psychologist licensed pursuant to section  
18 2 of chapter 112 after examining a patient, may petition the dis-  
19 trict court in whose jurisdiction such patient resides for the outpa-  
20 tient commitment of such patient whom the physician determines  
21 (1) is mentally ill, and (2) displays one or more of the following:

22 (i). Likelihood of creating serious harm, or

23 (ii). Incapacity to make an informed decision regarding treat-  
24 ment, or

25 (iii). Grave disability, and

26 (3) the patient will likely deteriorate without treatment.

27 (c) Any petition for outpatient treatment under (a) or (b) of this  
28 section shall include a written outpatient treatment plan prepared  
29 by those familiar with the patient’s case history, and approved by

30 the superintendent or physician in charge of the patient's care. The  
31 plan shall include each of the following:

32 (1) A statement of the patient's requirements for supervision,  
33 medication, and assistance in obtaining the basic needs such as  
34 employment, food, clothing, and shelter.

35 (2) The address of the residence where the patient resides and  
36 the name of the person(s) in charge of the residence.

37 (3) The name and address of any person, agency, or organiza-  
38 tion assigned to supervise an outpatient treatment plan or care for  
39 the patient.

40 (4) The conditions for continued outpatient treatment, which  
41 may require reporting, continuation of medication and submission  
42 to testing, and may restrict travel, consumption of liquor and  
43 drugs, associations with others, or other such reasonable condi-  
44 tions as the petitioner may specify.

1 SECTION 5. Said Chapter 123 of the General Laws, as so  
2 appearing, is hereby amended by inserting after section 8 the  
3 following:—

4 Section 8 1/2.

5 (a) After a hearing, unless the subject waives the hearing in  
6 writing, the district court shall not order the commitment of a  
7 person to involuntary outpatient treatment or shall not renew such  
8 order unless it finds:

9 (1) the patient is mentally ill, and

10 (2) the illness results in one or more of the following:

11 (i). Likelihood of serious harm, or

12 (ii). Incapacity to make an informed decision regarding treat-  
13 ment, or

14 (iii). Grave disability, and

15 (3) the patient does not require continuous inpatient hospital-  
16 ization, and will be more appropriately treated in an outpatient  
17 treatment program, and

18 (4) the patient will likely deteriorate without treatment and such  
19 deterioration could result in harm to themselves or others.

20 (b) The court shall render its decision on the petition within ten  
21 days of the completion of the hearing.

22 (c) Outpatient commitment shall not be ordered unless the court  
23 approves a written treatment plan presented to the court which

24 conforms to the requirements of section 7 ½ of this chapter, and  
25 which contains the name of the designated director of the mental  
26 health treatment agency that will supervise and administer the  
27 patient's treatment program.

28 (d) The court may order only that portion of the treatment plan  
29 submitted pursuant to section 7½ of this chapter which it deter-  
30 mines appropriate, considering all appropriate alternatives for  
31 treatment and are determined for the patient to be the least restric-  
32 tive alternative available.

33 (e) The first order for outpatient commitment shall not exceed  
34 90 days, and any subsequent order shall not exceed 365 days.

35 (f) If the court orders outpatient treatment pursuant to this  
36 section, all of the following will apply:

37 (1) During any period of the outpatient commitment, if the  
38 court, on motion by the medical director in charge of a patient's  
39 commitment, determines that the patient is not complying with the  
40 terms of the order or that the outpatient plan no longer remains  
41 appropriate and the patient needs inpatient treatment, the court  
42 may enter an order amending its original order. The amended  
43 order may alter the outpatient's treatment plan, or commit the  
44 patient to inpatient treatment pursuant to section 8 of this chapter.

45 (2) If a patient refuses to comply with an amended outpatient  
46 plan, further amendments may be made as the court deems neces-  
47 sary including the inpatient commitment of the patient.

48 (3) If the patient refuses to comply with an amended order for  
49 inpatient hospitalization and treatment, the court may authorize  
50 and direct a peace officer to take the patient into protective cus-  
51 tody and transport him to the agency specified for inpatient treat-  
52 ment.

53 (4) When reporting or being returned to a treatment facility for  
54 inpatient treatment pursuant to an amended order, the patient shall  
55 retain all rights to judicial review, and the right to counsel.

1 SECTION 6. Said Chapter 123 of the General Laws, as so  
2 appearing, is hereby amended by inserting after section 8 the  
3 following:—

4 Section 8 3/4

5 (a) Before commitment for outpatient treatment, the patient  
6 shall be provided with copies of the court order and full explana-

7 tions of the approved treatment plan. The approved treatment plan  
8 shall be filed with the court and the medical director in charge of  
9 supervising the patient's outpatient treatment.

10 (b) The medical director shall require periodic reports, not to  
11 exceed 30 days, concerning the condition of patients committed to  
12 outpatient treatment from any person, agency, or organization  
13 assigned to supervise such patients.

14 (c) The medical director shall review the condition of a patient  
15 committed to outpatient treatment at least once every 30 days.

16 (d) The medical director may amend any part of the outpatient  
17 treatment plan during the course of commitment, subject to judi-  
18 cial review after notice to and complaint of the patient.

19 (e) The medical director may, at any time during the course of  
20 the ordered outpatient if, petition the court for inpatient commit-  
21 ment of the patient if, in the medical director's judgment, the  
22 patient has failed to comply with a term of the outpatient treat-  
23 ment plan.

24 (f) The medical director may, at any time, petition the court for  
25 termination of a patient's outpatient commitment or order if the  
26 medical director determines that outpatient treatment is no longer  
27 appropriate.

28 (g) Nothing in this section prevents the medical director from  
29 authorizing involuntary commitment and treatment in an emer-  
30 gency situation under section 12 of this chapter.

1 SECTION 7. Section 9 of said Chapter 123 of the General  
2 Laws, as so appearing, is hereby amended by adding at the end  
3 thereof the following:—

4 Any person may apply to the court stating their belief that a  
5 person currently treated on an involuntary outpatient basis under  
6 section 8 1/2 should no longer be so treated.